

Now, let me say this before somebody tunes out. I think this bill has problems, and I think there are issues that need to be resolved around orderly liquidation. The Senator from Virginia and I both know what they are, and there are some flexibilities that have been granted to the FDIC, to the Federal Reserve, and others that need to be tightened. There are some words that instead of saying "shall" say "may." That is a very important word when you are telling an agency what they have to do or what they "may" do. So there is much in this bill that needs to be fixed.

I want to say that as the Dodd bill sits today, I could not vote for it. I absolutely cannot support the bill. But what concerns me is the rhetoric that is being used to talk about something that is very important to our country, and it is being used on both sides, I might add.

On one side they are saying the Republicans want to protect Wall Street firms. Well, I can tell you this: I think there are very few Republicans who do not want to see financial regulation take place. I think there are very few Republicans who don't want to see it done the right way. Candidly, I think most Republicans and Democrats are listening to community bankers. They are not listening to Wall Street. That would be my guess.

So that rhetoric, to me, is off base. The rhetoric on my side of the aisle saying this orderly liquidation title basically keeps "too big to fail" in place, the central pieces of it, is not true. Are there some things around the edges that need to be fixed? Yes. My sense is, as I have said on the Senate floor, we can fix those in about 5 minutes if we just sit down and do it. I do not understand why the rhetoric has gotten to where it is. I would like to see us pass a bill that makes sense.

The kind of thing we should be talking about is not the fact that this is a bailout fund. By the way, whether it is "pre" or "post," that debate doesn't matter to me. The fact is, we have to have some debtor-in-possession financing available to wind these firms down, sell off the assets, make sure the stockholders are absolute toast, make sure unsecured creditors are toast, make sure it is so painful that nobody ever wants to go through this. We absolutely need to do that. The American people need to know we in Congress are not going to prop up a failed institution, that they are going to live the same life in capitalism that everybody else has to live. People in Tennessee, when they fail, they fail.

The kind of thing we ought to be talking about and have been talking about and I think can solve is that I think we ought to have more judicial involvement in the process. We ought to improve the bankruptcy process so that these large institutions have a more viable route through bankruptcy.

I think we ought to deal with the disparate treatment of similarly situated

creditors. The fact is, the way the "post" funding in this bill is now set up, we do not. If a creditor receives more money than they should, that money is not recouped. We know how to fix that. I know the Senator from Virginia and I both know how to fix that.

Those are the kinds of things we need to be talking about.

Creditor prioritization—there is no question that right now in the bill, certain creditors can be treated differently by the FDIC than others.

We need to be looking at bankruptcy stacks so that people understand how much they are going to be paid back, and they are going to be in the same order they anticipate being in.

We need to be tightening the definition of a financial firm. Right now in the bill, the way it reads, an auto company could end up being part of this. Right now, it is not tight enough. An auto company may be a stretch, but something other than a financial firm could be dealt with, the way the language is now reading. And certainly for sure Fannie and Freddie need to be treated the same as any other financial firm.

We need to have a solvency test to make sure regulators—that does not allow regulators the flexibility to protect firms in crisis.

We need to make sure there is a duration. In other words, if the FDIC comes in and has to take over, after due process—three keys being turned—take over one of these firms that has posed systemic risk, we need to know there is an end date. I know the Senator from Virginia and I absolutely agree that conservatorship should not be on the table. This is only a receivership and those firms should go out of business, and that, no doubt, should be language added. It is not in there right now.

There are a number of things like this. I could go on and on. I am probably boring much of the watching audience, if there is any, with some of these technical issues, but those are the kinds of things we in this body ought to be talking about. They are important. They matter. But to use up time with rhetoric that, in essence, is used to sort of brand something in a way that really isn't the way it is, to me, is not productive. I did not come here to do that.

Again, I think both sides of the aisle tried to cast the characters in certain ways. It is this herd process that happens around here. Everybody wants to get everybody on the same team. What we do is we use rhetoric that charges people up and gets everybody on the same team. I do not like that process. I do not want to be a part of that process.

I have joined with other Republicans to try to make sure this bill gets in the middle of the road. I have done that on the basis that both sides are going to deal in good faith.

I know the Senator from Virginia knows we went through a process with

this bill where we voted it out of committee in 21 minutes—a 1,336-page bill we voted out of committee in 21 minutes with no amendments. The stated goal was to make sure that both sides did not harden against each other and that we could negotiate a bill before it came to the floor—came to the floor—we would negotiate a bipartisan bill. That is why it was stated that we did that. How can responsible Senators, 23 Senators, all of whom have problems with this bill—how can you vote something out of committee in 21 minutes with no amendments unless you know that a negotiation process is going to take place afterward to create a bipartisan bill? Nobody in their right mind would have agreed to do that.

What I would say to my friends on the other side of the aisle and what I would say to the folks at the other end of Pennsylvania Avenue, who seem to be turning up the rhetoric—I take it as a commitment from my friends on the other side of the aisle that we are going to negotiate a bipartisan bill and we are going to do it in good faith. But I also expect the same on my side of the aisle, that we are going to negotiate in good faith to get a bill and that before it comes to the floor the major template pieces will be worked out, the issues around consumers, the issues around orderly liquidation, and the issues around consumer protection.

As I have mentioned, there are a number of issues we need to debate here on the floor that, to me, are outside the realm of the template itself. I hope this body—I know the Senator from Virginia and I have worked together a great deal. I know we both came from a world that was different from this. I have become greatly distressed. I get distressed at both sides of the aisle when we have an important issue such as this and we turn it into sound bites.

I hope, again, over the next several days—this bill has been through so many iterations. Everybody who has worked on it understands what is in it. Everybody understands what the points are on which we disagree. As a matter of fact, if we do not end up with a bipartisan bill, it is not going to be over philosophical issues, it is going to be over the fact that the two sides just decided they didn't want to do it. It is going to be over the fact that it takes both sides.

The fact is, the White House can make an issue out of this. I know things are not going particularly well in the polling areas. I know my friend from North Dakota talked about polling data and testing things and all that. I realize things are not going particularly well. Maybe this financial reform bill can be something that changes that. Maybe if you push the bill as far to the left as you can and you dare Republicans to vote against it, maybe that is a good thing. That is not what I came here to do. I do not think that is what the Senator from Virginia came here to do. I know that